

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Winnemucca District Office
5100 East Winnemucca Boulevard
Winnemucca, NV 89445
Phone: (775) 623-1500 Fax: (775) 623-1503

Decision Record **Effective Immediately**

DOI-BLM-NV-W010-2013-0032-DNA

Introduction

In December 2012, the BLM Humboldt River Field Office issued the Long Canyon Wildfire Management and Livestock Closure Decision (DOI-BLM-NV-W010-2013-0001-DNA). This decision authorized emergency stabilization and rehabilitation treatments within the burned area of the Long Canyon Fire. A six mile fence on the northwest side of the fire was constructed to exclude livestock from the burned area. The rest of the fire boundary was not fenced and would require the livestock operators to actively take measures to keep their livestock out of the burned area.

After the decision was issued the livestock operators (Proponents) approached the BLM requesting the construction of temporary electric fences to exclude their livestock from the burn due to concerns with the inability to keep livestock off the burned area. The Proponents would pay for a contractor to conduct a cultural resources inventory of the fence route prior to construction. The Proponents would purchase the fence materials and construct, maintain and remove the fences.

Decision

Given the emergency nature of stabilization treatments, this decision authorizes implementation of treatments immediately under 43 CFR 4190.1.

It is my decision to approve the construction of the temporary electric protection fences in order to restrict livestock from the Long Canyon fire burn area. These fences will be constructed within the Jordan Meadows and Crowley Creek Allotments in order to allow the Proponents to utilize the remainder of the allotments within the terms and conditions of their current and existing permits; thereby allowing grazing within the unburned portions of the pastures while protecting the stabilization and rehabilitation treatments identified in the Emergency Stabilization and Rehabilitation Plan for the Long Canyon Fire (DOI-BLM-NV-W010-2013-0001-DNA).

The fences will be located along the southwest and southeast boundaries of the Long Canyon fire burn area. The first will start from approximately one mile southeast of Salient Peak (45N, 37E section 3) and end at an existing pasture boundary fence in the Crowley Creek Allotment (45N, 36E section 35), a total length of approximately 9 miles. The second will start from an existing pasture fence near Crowley Creek (45N, 36E section 16) and end near Rock Creek (44N, 36E section 5), a total length of approximately 4 miles. Both fences will be constructed according to current temporary fence specifications. Construction may begin upon issuance of this Decision Record. Fences will be purchased, constructed, maintained and removed by the permittees. Removal of the fences will coincide with the reintroduction of livestock in the burned portions of the Jordan Meadows and Crowley Creek Allotments, based on attainment of closure objectives and upon release of closure by the BLM.

Mitigation measures and Standard Operating Procedures identified in the Decision Record associated with the Normal Fire Rehabilitation Plan Environmental Assessment (NV-020-04-21) are consistent with and apply to the approval of this action. In addition, the following mitigation measures have been developed as described in Part E of the DNA worksheet.

Cultural Stipulation:

Prior to construction of the temporary electric fence, a Class III survey for cultural resource inventories will be conducted. The contractor retained by the Proponent to conduct the inventories, will inventory a route for the proposed fence line. Proponent will follow fence line route inventoried by cultural contractor. Significant cultural resources will be avoided through relocation of the fence route.

Wetland/Riparian Stipulation:

In order to ensure that maintenance of the fence, as described in the proposed action, is effective at preventing livestock utilization of wetland and riparian vegetation along Crowley Creek by livestock, the Proponent will monitor the operational status of the fence and provide an informal report (written, verbal, email, etc.) to the BLM once per week during periods of grazing use. This will provide the Proponent and the BLM with a better understanding of issues that may cause the need for maintenance while also ensuring timely identification of circumstances which may allow livestock to cross the fence so that corrective or preventative measures can be taken.

Rational:

- 1) The proposed action is in conformance with and is consistent with the Paradise Denio Management Framework Plan (MFP).
- 2) Based on the information contained in the DNA Worksheet DOI-BLM-NV-W010-2013-0032-DNA, it is determined that the proposed action will not have environmental impacts beyond those addressed in the Normal Year Fire Rehabilitation Plan Environmental Assessment NV-020-04-21.

- 3) The proposed action is consistent with federal, state, and local laws, regulations, and plans.
- 4) The proposed action will not result in any undue or unnecessary environmental degradation of the public lands nor adversely impact any threatened or endangered species or significant scientific, cultural, or historical resources.

Conformance:

The actions proposed are in conformance with the following documents:

LUP Name*: Paradise Denio Management Framework Plan (MFP). Date Approved: 1982

The proposed action is in conformance with the applicable LUP because it is specifically provided for the following LUP decisions:

The proposed treatments are in conformance with **the Paradise-Denio MFP:**

Wildlife MFPIII Decisions WL-1.21 P.D.: Maintain and improve habitat for sensitive, protected, threatened and endangered species listed on the U.S. Fish and Wildlife Service Endangered and Threatened List, BLM-Nevada Department of Wildlife Sensitive Species List and those existing Federal and state laws and regulations.

Paradise-Denio MFP, Standard Operating Procedures: .45 Soil-Water-Air

“Consider rehabilitation areas which have had protective vegetative cover destroyed by wildfire...Utilize seeding or other watershed stabilization techniques as required. Rehabilitation must be protected from grazing until adequate seedling establishment has been attained.”

Applicable National Environmental Policy Act (NEPA) documents and other related documents that cover the proposed action:

List by name, number and date (DR/FONSI or ROD) all applicable NEPA documents that cover the proposed action.

- Normal Year Fire Rehabilitation Plan Environmental Assessment EA# NV-020-04-21, Decision Record and Finding of No Significant Impact 8/19/04.

List by name and date other documentation relevant to the proposed action (e.g., biological assessment, biological opinion, watershed assessment, allotment evaluation, and monitoring report):

- Biological Opinion for the Normal Year Fire Rehabilitation Plan (August 2004)
- Winnemucca District Fire Management Plan (September 2004)
- IM 2012-043 Greater Sage Grouse Interim Management Policies & Procedures/A Report on National Greater Sage-Grouse Conservation Measures. Produced by: Sage-grouse National Technical Team, 12/21/2011 (pp. 27)

- IM 2012-044 BLM National Greater Sage-Grouse Land Use Plan Strategy.
- Native Cover Crops Suppress Exotic Annuals and Favor Native Perennials in a Greenhouse Competition Experiment (Perry, Plant Ecology, February 2009)
- USFWS Utah Field Office Guidelines for Raptor Protection From Human and Land Use Disturbances (2002)

Decision Authority:

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) 4190.1 including, but not limited to the following:

4190.1 Effect of wildfire management decisions.

(a) Notwithstanding the provisions of 43 CFR 4.21(a)(1), when BLM determines that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire, BLM may make a rangeland wildfire management decision effective immediately or on a date established in the decision. Wildfire management includes but is not limited to:

- (2) Projects to stabilize and rehabilitate lands affected by wildfire.

Appeal Provisions:

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 at the below address. If an appeal is taken, your notice of appeal must be filed within this office to Vern Graham, Field Manager, Humboldt River Field Office within 30 days from the effective date of this decision. The appellant has the burden of showing that the decision appealed from is in error. Notwithstanding the provisions of 43 CFR 4.21(a)(1), filing a notice of appeal does not automatically suspend the effect of the decision.

United States Department of the Interior
Office of the Secretary
Board of Land Appeals
4015 Wilson Blvd., Arlington, Virginia 22203

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (b) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named on this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

WHERE TO FILE
NOTICE OF APPEAL. . . .

U.S. Department of the Interior
Bureau of Land Management
Humboldt River Field Office
5100 E. Winnemucca Blvd.
Winnemucca, NV 89445

SOLICITOR
ALSO COPY TO. . . .

U.S. Department of the Interior
Office of the Field Solicitor
Pacific Southwest Region
2800 Cottage Way, Room E-1712
Sacramento, CA 95825

A petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

If you have any questions please contact Bret Allen, Rangeland Management Specialist at (775) 623-1500.

Sincerely,

/s/ Vern Graham

Vern Graham
Field Manager
Humboldt River Field Office

cc: Interested Public

Center for Biological Diversity
Humboldt County Commissioners
Sustainable Grazing Association
NDOW Fallon
Western Watersheds Project
State of Nevada – Department of Administration
NDOW Winnemucca
Nevada Cattlemen's Association
Nevada Woolgrower's Association
Jordan Meadows, LLC.
RCI
US Fish and Wildlife Office
Bartell Ranch, LLC.